

**ASSEMBLY BILL**

**No. 1612**

**Introduced by Assembly Member Kehoe**

February 21, 2003

An act to amend Section 182 of the Penal Code, relating to conspiracy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as introduced, Kehoe. Conspiracy.

Existing law provides that if 2 or more persons conspire to commit a felony they are punishable in the same manner and to the same extent as is provided for the punishment of that felony.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 182 of the Penal Code is amended to
- 2 read:
- 3 182. (a) If two or more persons conspire:
- 4 (1) To commit any crime.
- 5 (2) Falsely and maliciously to indict another for any crime, or
- 6 to procure another to be charged or arrested for any crime.
- 7 (3) Falsely to move or maintain any suit, action, or proceeding.
- 8 (4) To cheat and defraud any person of any property, by any
- 9 means which are in themselves criminal, or to obtain money or

1 property by false pretenses or by false promises with fraudulent  
2 intent not to perform those promises.

3 (5) To commit any act injurious to the public health, to public  
4 morals, or to pervert or obstruct justice, or the due administration  
5 of the laws.

6 (6) To commit any crime against the person of the President or  
7 Vice President of the United States, the Governor of any state or  
8 territory, any United States justice or judge, or the secretary of any  
9 of the executive departments of the United States.

10 They are punishable as follows:

11 When they conspire to commit any crime against the person of  
12 any official specified in paragraph (6), they are guilty of a felony  
13 and are punishable by imprisonment in the state prison for five,  
14 seven, or nine years.

15 When they conspire to commit any other felony, they shall be  
16 punishable in the same manner and to the same extent as is  
17 provided for the punishment of that felony. If the felony is one for  
18 which different punishments are prescribed for different degrees,  
19 the jury or court ~~which~~ *that* finds the defendant guilty thereof shall  
20 determine the degree of the felony the defendant conspired to  
21 commit. If the degree is not so determined, the punishment for  
22 conspiracy to commit the felony shall be that prescribed for the  
23 lesser degree, except in the case of conspiracy to commit murder,  
24 in which case the punishment shall be that prescribed for murder  
25 in the first degree.

26 If the felony is conspiracy to commit two or more felonies ~~which~~  
27 *that* have different punishments and the commission of those  
28 felonies constitute but one offense of conspiracy, the penalty shall  
29 be that prescribed for the felony which has the greater maximum  
30 term.

31 When they conspire to do an act described in paragraph (4), they  
32 shall be punishable by imprisonment in the state prison, or by  
33 imprisonment in the county jail for not more than one year, or by  
34 a fine not exceeding ten thousand dollars (\$10,000), or by both that  
35 imprisonment and fine.

36 When they conspire to do any of the other acts described in this  
37 section, they shall be punishable by imprisonment in the county  
38 jail for not more than one year, or in the state prison, or by a fine  
39 not exceeding ten thousand dollars (\$10,000), or by both that  
40 imprisonment and fine. When they receive a felony conviction for

1 conspiring to commit identity theft, as defined in Section 530.5,  
2 the court may impose a fine of up to twenty-five thousand dollars  
3 (\$25,000).

4 All cases of conspiracy may be prosecuted and tried in the  
5 superior court of any county in which any overt act tending to  
6 effect the conspiracy shall be done.

7 (b) Upon a trial for conspiracy, in a case ~~where~~ *in which* an  
8 overt act is necessary to constitute the offense, the defendant  
9 cannot be convicted unless one or more overt acts are expressly  
10 alleged in the indictment or information, nor unless one of the acts  
11 alleged is proved; but other overt acts not alleged may be given in  
12 evidence.

